

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSEPH J. HEIJNEN, WILHELMUS A. A. KOEVOETS
and ROBERT J. ZOETEMEYER

Appeal No. 96-0889
Application 08/089,944¹

ON BRIEF

Before SOFOCLEOUS, OWENS and WALTZ, Administrative Patent Judges.
SOFOCLEOUS, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 5 and 8, all the claims remaining in the application.

¹ Application for patent filed July 9, 1993. According to appellants, this application is a division of Application 07/581,135, filed September 10, 1990, now U.S. Patent No. 5,230,794, issued July 27, 1993; which is a continuation of Application 07/254,053, filed October 6, 1988, now abandoned.

The subject matter on appeal is directed to a three-phase separator device for the treatment of waste.

In their brief, appellants do not separately argue any of their claims and thus claims 5 and 8 stand or fall together with independent claim 5 which reads as follows:

5. A three-phase separator for a fluidized bed apparatus for the anaerobic treatment of a waste water liquid phase wherein a gas phase is generated, the three-phase separator being adapted to be situated in the top of a reactor for separating the gas phase from a treated liquid phase, and from a biomass, and for returning the biomass to the reactor, the three-phase separator comprising:

a settling compartment having an inlet, and outlet for treated liquid phase from which the gas phase and biomass have been substantially removed,

a plurality of parallel partitions connected to the settling compartment and inclined to both the vertical and the horizontal for creating an internal gaslift circulation of biomass and treated liquid phase in the separator, the parallel partitions having an inlet for the biomass and treated liquid phase that is separated from the gas phase and flows between the partitions to an outlet from said parallel partitions, the parallel partitions inlet being above the parallel partitions outlet, and the outlet from the parallel partitions being in open communication with the inlet to the settling compartment for the flow of treated liquid phase into the settling compartment,

a deflector inclined to the vertical and the horizontal, said deflector being connected to the settling compartment and having a major surface extending below and across the inlet to the settling compartment and below and across the outlet from the parallel partitions to provide an outlet from the separator for return of the biomass from the separator to the reactor, the outlet for the biomass being spaced apart from the inlet to the parallel partitions, the inclined deflector and the parallel partitions being at opposite inclined angles with respect to each other,

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whereby treated liquid phase flowing into the settling compartment and biomass is separated from the treated liquid phase and flows back to the reactor with the aid of the gaslift circulation.

The references relied upon by the Examiner are:

Olszewski et al. (Olszewski)	4,477,344	Oct. 16, 1984
Lee	4,664,802	May 12, 1987

Claims 5 and 8 stand rejected under 35 U.S.C. 102(b) as being anticipated by Olszewski.

Claims 5 and 8 stand rejected under 35 U.S.C. 102(b) as being anticipated by Lee.

After having reviewed the references in light of the arguments by the examiner and appellants, we find that we cannot sustain these rejections.

It is axiomatic that for prior art to anticipate under 35 U.S.C. § 102 it has to meet every element of the claimed invention. Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1379, 231 USPQ 81, 90 (Fed. Cir. 1986), cert. denied, 480 U.S. 947 (1987).

Claim 5 recites that the inclined deflector and the parallel partitions are at opposite inclined angles with respect to each other. Since neither reference relied upon by the examiner recites this feature, neither reference can anticipate the claimed invention. In Olszewski, the deflector (element 4) and the partitions (12) are both inclined in the same direction,

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i.e., upward and to the right. In Lee, the deflector (elements 5 and 7) and the partitions (15) are both inclined in the same direction, i.e., downward and to the right.

For the foregoing reasons, the examiner's rejections are reversed.

REVERSED

MICHAEL SOFOCLEOUS)	
Administrative Patent Judge)	
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TERRY J. OWENS)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
THOMAS A. WALTZ)	
Administrative Patent Judge)	

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Joel S. Goldhammer
Panitch, Schwarze, Jacobs & Nadel
1601 Market St. - 36th Floor
Philadelphia, PA 19103